

Members request assistance in shielding American consumers from mortgage servicers engaged in fraud around foreclosure crisis

WASHINGTON, DC – Today, Congressmen Jerrold Nadler, George Miller, Elijah Cummings, and Brad Miller, along with several of their Congressional colleagues urged U.S. Attorney General Eric Holder and Iowa State Attorney General Tom Miller, head of the coordinated State Attorneys General investigation, to do more to protect victims of improper foreclosures. The Members urged the Attorneys General to consider concerns raised by a broad coalition of consumer, labor, civil rights, and other organizations about the ongoing settlement talks between state attorneys general and mortgage servicers involved in improper and unlawful activities connected to the foreclosure crisis.

"In the communities we represent, and in others across the country, the flagrant disregard for the law and predatory practices by lenders and servicers, have imposed substantial hardships on both homeowners and their neighbors," wrote the Members of Congress. "We hope that, as these talks proceed, you will work to protect the rights of those harmed by these practices, provide meaningful immediate relief to homeowners, hold lenders and servicers accountable for any unlawful practices that they engaged in, and ensure that, in the future, the practices that brought about this crisis will not reoccur."

The full text of the letters follow:

Hon. Eric H. Holder, Jr.
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

We are writing to you concerning the ongoing settlement talks between state Attorneys General and mortgage servicers in cases involving improper and unlawful activities by those servicers.

In the communities we represent, and in others across the country, the flagrant disregard for the law and predatory practices by lenders and servicers, have imposed substantial hardships on both homeowners and their neighbors. We hope that, as these talks proceed, you will work to protect the rights of those harmed by these practices, provide meaningful immediate relief to homeowners, hold lenders and servicers accountable for any unlawful practices that they engaged in, and ensure that, in the future, the practices that brought about this crisis will not reoccur.

We have received the enclosed letter from a broad coalition of consumer, civil rights, and labor organizations setting out a series of concerns about a possible settlement.

We ask that you review this letter and let us know what you are doing to address the concerns raised in the letter.

Sincerely,

Congressman Jerrold Nadler
Congressman George Miller
Congressman Elijah Cummings
Congressman Brad Miller
Congresswoman Laura Richardson
Congressman Alcee Hastings
Congressman Jim McDermott
Congressman John Conyers
Congresswoman Anna Eshoo
Congresswoman Lynn Woolsey
Congressman Steve Cohen
Congressman Sam Farr

Hon. Tom Miller

Attorney General
1305 E. Walnut Street
Des Moines, IA 50319

Dear Attorney General Miller:

We are writing to you concerning the ongoing settlement talks between state Attorneys General and mortgage servicers in cases involving improper and unlawful activities by those servicers.

In the communities we represent, and in others across the country, the flagrant disregard for the law and predatory practices by lenders and servicers, have imposed substantial hardships on both homeowners and their neighbors. We hope that, as these talks proceed, the Attorneys General will work to protect the rights of those harmed by these practices, provide meaningful immediate relief to homeowners, hold lenders and servicers accountable for any unlawful practices that they engaged in, and ensure that, in the future, the practices that brought about this crisis will not reoccur.

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Congresswoman Lynn Woolsey
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Congressman Sam Farr

A copy of the coalition letter follows here:

April 13th, 2011

Dear Representative,

The record of lawbreaking and abuse by the largest banks and servicers at every stage of the mortgage origination, securitization, servicing and foreclosure process is breathtaking, and the damage done – to homeowners, communities, investors, pension funds, and the economy as a whole – is devastating.

We are writing to ask you to join us in pressing federal and state regulators and law enforcement officials to use their authority effectively to hold the lawbreakers accountable, and to craft solutions that will end wrongdoing, provide relief and restitution for injured families, and avert the disaster of millions of continuing foreclosures by requiring sustainable mortgage modifications including principal reductions. Strong resolutions of these issues are perhaps our best hope to end the misery of unprecedented levels of foreclosures, and to get our economy back on track by stabilizing the housing market. Weak settlements, on the other hand, especially weak settlements that preclude continued investigation and prosecution where needed, would amount to another bank bailout.

The federal regulators draft consent decree leaked last week clearly fails this test: it does not hold servicers accountable for illegal practices, and it would not stop avoidable foreclosures. In the words of the New York Times editorial board, the federal regulators let banks off the hook

again. The draft Attorneys' General settlement language leaked some weeks earlier included sensible measures to get the loss modification process on track to save homes. It also, however, fell short of what we need in some very important respects. In other areas it remained unclear what the AG group contemplates.

What is extremely clear is that despite the modesty of that AG proposal, the servicers and banks have launched a PR offensive claiming that its terms are onerous and unfair. Among other things, they have suggested that the 20-25 billion dollar figure floated is unreasonably high. If anything this number seems to us low; this industry has done trillions of dollars of damage to the economy, and it is just one dimension of the problem that homeowners now owe 750 billion dollars more than their homes are worth. Moreover, the banks refuse to adopt reasonable rules on loan modifications and servicing fees despite the fact that their misconduct in these areas is well documented. In the face of the overwhelming importance of this issue to struggling families and to the economy as a whole the banks' arguments must not be allowed to carry the day. We need tough agreements that lay out new rules, and make sure they are followed, and that do not let the industry escape from accountability for one major area of illegal activity by committing to improved behavior in another. For example, they should not settle securities claims if they have done nothing to resolve them.

A fair settlement would include the following principles:

Make principal reduction mandatory and widely applicable.

There must be clear mandates for widespread principal reduction for homeowners at risk of foreclosure. Mandatory principal reduction will keep millions of families in their homes, stabilize communities, and help get the housing market back on track. This will be more fair, because it spreads the costs of the loss of equity in the housing market across a broader range of players, including the big lenders who were major causes of the problem – rather than having the cost borne disproportionately by homeowners. And it is more likely to result in workable long term loan modifications that save homes and stabilize the market. Equally important, these loan modifications protect investors and taxpayers' interests by avoiding the greater losses produced by foreclosures.

Provide 12-month or more extended forbearance for unemployed/underemployed people.

The continuing economic crisis - whose roots lie in the abusive lending and securitization practices of the big banks - means that unemployment or loss of income is now a central cause of many foreclosures. Current HAMP guidelines only give unemployed homeowners three months forbearance, despite the average length of unemployment standing at close to nine months. Forbearance, in combination with a working mortgage modification program, would prevent temporary loss of income from leading to foreclosures and contributing to a downward economic spiral. A good forbearance program would reduce a homeowner's payment to 31 percent of income and have a workable payment plan for the amounts forborne.

Establish restitution for people who have already lost their homes.

Millions of families have already lost their homes in a broken system. These families need restitution, up to and including having their homes returned to them when they were wrongfully foreclosed upon and where there is not yet a new owner.

Stop foreclosures while homeowners are reviewed for loan modifications.

People who are waiting to be reviewed for a home-saving loan modification need an immediate halt to any foreclosure process affecting them. During this stop, servicers should be prohibited from assessing late fees or other similar charges. A stop to the process will incentivize servicers to speed the pace of modification reviews. Homeowners deserve a fair chance to keep their homes.

Keep fee and insurance costs reasonable.

Servicers routinely overcharge homeowners with abusive fees and excessive insurance costs. Reasonable fee and insurance guidelines are needed to restore balance to these core servicing activities.

Offer a fairer resolution for first lien holders over second lien holders. First lien holders should get paid "more and before" second lien holders, as required by law and by the contracts governing the servicing of securitized mortgages. Banks that service home loans for others are

favoring their own second liens over the rights of investors and homeowners.

Make enforcement effective.

The servicers have repeatedly ignored or evaded contractual and legal requirements. To work, settlements must have a clear and powerful set of enforcement mechanisms, including a staffed enforcement team able to review servicer performance and borrower complaints, and to impose additional sanctions for failure to comply.

Deny the servicers "get out of jail free" cards.

No settlement should get in the way of further investigations and prosecutions in areas where it does not include meaningful solutions.

There is a tremendous amount at stake in these regulatory and law enforcement actions, and we look forward to working with you to hold lawbreaking banks accountable, and to accomplish real change for families, communities, and our whole economy.

Sincerely,

Alliance for a Just Society
Americans for Financial Reform
Center for NYC Neighborhoods
Center for Responsible Lending
Community Legal Services of Philadelphia
Community Organizations in Action
Consumer Action
Main Street Alliance
Massachusetts Communities Action Network
National Association of Consumer Advocates (NACA)
National Consumer Law Center on behalf of its low-income clients
National Council of La Raza

National Fair Housing Alliance

National People's Action

Neighborhood Economic Development Advocacy Project (NEDAP)

New York Communities for Change (NYCC)

PICO National Network

Service Employees International Union (SEIU)

The Leadership Conference on Civil and Human Rights

U.S. Public Interest Research Group (PIRG)

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